

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

EVELYN J. RANDALL, BY THOMAS RANDALL, PERSONAL REPRESENTATIVE OF
THE ESTATE OF EVELYN RANDALL,

Respondent

v.

EDDIE D. RANDALL AND DONALD ORVILLE RANDALL.

Appellants

DOCKET NUMBER WD79070

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: August 30, 2016

Appeal From:

Circuit Court of Buchanan County, MO
The Honorable Randall R. Jackson, Judge

Appellate Judges:

Division Four
Mark D. Pfeiffer, C. J. Presiding, James Edward Welsh, and Edward R. Ardini, Jr., JJ.

Attorneys:

Diane Hook, St. Joseph, MO
Gary Myers, St. Joseph, MO

Counsel for Appellants
Co-Counsel for Appellants

Attorneys:

John Burns, St. Joseph, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**EVELYN J. RANDALL, BY THOMAS RANDALL, PERSONAL
REPRESENTATIVE OF THE ESTATE OF EVELYN RANDALL, Respondent, v.
EDDIE D. RANDALL AND DONALD ORVILLE RANDALL, Appellants**

WD79070

Buchanan County

Before Division Four Judges: Pfeiffer, C.J., Welsh, and Ardini, JJ.

Eddie Randall and Donald Randall appeal the circuit court's judgment in favor of Evelyn Randall (by Thomas Randall, personal representative of her Estate) setting aside a warranty deed that Eddie executed as Evelyn's attorney in fact, which purportedly deeded Evelyn's property to himself and Donald.

Affirmed.

Division Four holds:

The circuit court did not err in declaring, as a matter of law, that, because Evelyn's durable power of attorney did not authorize the conveyance of her real estate in writing, it was void *ab initio* and that a document executed three years later, which stated that she owned the property "until it was gifted to my two sons" -- a document that she did not remember signing and would not have signed had she thought that it was ratifying a gift of her property -- "did not and could not ratify a gift that never took place." Nor did the circuit court err in accepting those portions of Evelyn's testimony that supported her case to set aside the deed as credible and sufficient to prove her case "to a clear, cogent and convincing standard."

Opinion by James Edward Welsh, Judge

August 30, 2016

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.
--